

**MINUTES
ZONING BOARD OF ADJUSTMENT
AUGUST 15, 2017**

1. CALL TO ORDER – Mescher called the meeting to order at 4:00 p.m.

2. ROLL CALL

Members Present: Behrens, Mescher, Juon and Vargas

Members Absent: Olson

Staff: Brown, Garrett, Gibbons, Meeks and Wade

3. PLEDGE OF ALLEGIANCE

4. ADOPTION OF AGENDA

Motion by Behrens, second by Juon, to adopt the agenda as printed. Motion carried by unanimous voice vote.

5. APPROVAL – MINUTES OF JUNE 20, 2017 MEETING

Motion by Behrens, second by Vargas, to approve the minutes as written. Motion carried by unanimous voice vote.

6. PROOF OF PUBLICATION – Brown

7. REVIEW OF MEETING PROCEDURES – Mescher

8. PUBLIC HEARINGS

- A. CASE #BA-17-003: Continued public hearing on the request of Camping World, represented by Electric Guard Dog, LLC, for a variance from Section 15.24.040(3)(e)(v), Fences, General Requirements for Residential and Commercial Districts of the Council Bluffs Zoning Ordinance to allow an electrically charged security fence to be placed 195 feet from a residential zoning district as opposed to the required 300 feet, on property legally described as Lot 1, Camping World 2nd Addition. Location: East of 2808 South 21st Street.

The following members of the public spoke in favor of the request:

Scott Ryan, 5016 North 142nd Street, Omaha, NE 68164 spoke on behalf of the request. Ryan stated he is the General Manager for the subject Camping World location and that the electrically charged security fence was installed to prevent their recreational vehicles from being vandalized.

Michael Pate, 3131 Heyward Street, Columbia, SC 29205 stated he is the Director of Business Development and Compliance for Electric Guard Dog Fence, which is the company who installed the subject electrically, charged security fence around Camping World's property. Pate then described to the Board how the fence operates and the voltage level. Pate stated that Electric Guard Dog Fence wrote the electrically charged security fence ordinance in the Council Bluffs Municipal Code and that the 300-foot separation distance between the fence and a residential district/use was added by the City Council at the time the ordinance was adopted. Pate then discussed the existing site conditions surrounding the subject property and then answered questions from the Board regarding fence permitting and installation.

No one from the public spoke in opposition of the request.

Brown clarified that the land located immediately north of the subject property is City right-of-way and then responded to text amendment questions from the Board.

Wade confirmed that the City Council included a 300-foot separation distance in the adopted electrically charged fence ordinance in order to protect residential areas.

The Board then asked questions and discussed the request.

Motion by Vargas, second by Behrens, to deny the applicant's request for a 105-foot variance from Section 15.24.040(3)(e)(v), Fences, General Requirements for Residential and Commercial Districts of the Council Bluffs Zoning Ordinance to allow an electrically charged security fence to be placed 195 feet from a residential zoning district as opposed to the required 300 feet, on property legally described as Lot 1, Camping World 2nd Addition, based on the following finding of fact:

Finding of fact:

1. The particular property, because of size, shape, topography or other physical conditions does not suffer singular disadvantage through the application of this ordinance, which does not apply to other properties in the vicinity.
2. Because such disadvantage does not exist, the owner is able to make reasonable use of the affected property.
3. The disadvantage does exist because of conditions created by the owner or previous owners of the property.
4. Granting the variance will confer on the applicant special privileges that are denied by this ordinance to other properties or structures in the same district.
5. Granting the variance will be contrary to the public interest, will adversely affect other property in the vicinity, and will not be in harmony with the purpose and intent of this ordinance.

VOTE: AYE – Behrens, Juon, Mescher and Vargas. NAY – None. ABSTAIN – None. ABSENT – Olson. Motion carried

- B. CASE #BA-17-004: Public Hearing on the request of Brenda and David Fort for a variance from Section 15.09.050 Site Development Regulations for the R-2/Two Family Residential District to allow for an accessory structure to be constructed 10 feet from the street side yard, as opposed to the required 15 feet. The property is legally described as Lot 20, Block 5, Squires Addition. Location: 507 South 23rd Street.

David Fort, 507 South 23rd Street, Council Bluffs, Iowa 51501 spoke on behalf of the request. Fort stated he purchased the subject property in 2015 and knew at the time of the purchase that the existing garage must be demolished due to termite damage on the north and east walls. Fort then stated he wants to build a replacement 24 foot by 24 foot detached garage but is unable to comply with the required R-2 District setbacks due to the property being a 40 foot-wide, nonconforming corner lot. Fort then discussed the proposed garage setbacks and how the structure will be accessed from South 23rd Street.

No one from the public spoke in opposition of the request.

Brown responded to a site distance question from the Board regarding the location of the proposed garage on the subject property. Brown also explained to the Board that they have the authority to grant a lesser variance than the one requested by the applicant. Brown then clarified that a two foot street-

side yard setback variance, as opposed to the five-foot requested, would allow the applicant to build a 24' x 24' detached garage on subject property.

The Board discussed the request and then asked questions.

Motion by Behrens, second by Juon to approve a lesser variance than requested and to allow an accessory structure to be located thirteen feet, as opposed to the required fifteen feet, from a street side property line at 507 South 23rd Street, being Lot 20, Block 5, Squires Addition, due to the size of the subject property:

Finding of Fact:

1. The particular property, because of size, shape, topography or other physical conditions suffers singular disadvantage through the application of this ordinance, which does not apply to other properties in the vicinity.
2. Because of such disadvantage, the owner is unable to make reasonable use of the affected property.
3. The disadvantage does not exist because of conditions created by the owner or previous owners of the property.
4. Granting the variance will not confer on the applicant any special privileges that are denied by this ordinance to other properties or structures in the same district.
5. Granting the variance will not be contrary to the public interest, will not adversely affect other property in the vicinity, and will be in harmony with the purpose and intent of this ordinance.

VOTE: AYE – Behrens, Juon, Mescher and Vargas. NAY – None. ABSTAIN – None. ABSENT – Olson. Motion carried

- C. CASE #CU-16-004(M): Public hearing on the request of Matt Fatka, on behalf of Highway Signage Inc., to modify an approved conditional use permit to allow the expansion of a 'contractor yard' on property legally described as part of the SW1/4 SW1/4 of Section 34-75-44 and being more particularly described as beginning 365.44 feet East of the southwest corner of said Section 34-75-44, thence North 736 feet, thence East 363 feet, thence South 354.49, thence West 10 feet, thence South 350 feet, thence East 10 feet and thence West 363 feet to the point of beginning, City of Council Bluffs, Pottawattamie Count, Iowa. Location: 3250 16th Avenue.

Matt Fatka, 947 – 250th Street, Avoca, IA 51521 spoke on behalf of the request. Fatka stated he is co-owner of the business Highway Signage Inc. which operates a contractor yard on the subject property. Fatka stated the purpose of the modification request is to allow additional storage of equipment and materials on the subject property. Fatka then described the square footage of the proposed new contractor yard area and requested Board approval to allow crushed limestone gravel as the parking surface material.

No one from the public spoke in opposition of the request.

Motion by Behrens, second by Vargas to modify an approved conditional use permit to allow the expansion of a 'contractor yard' on property located at 3250 16th Avenue, as legally described above, subject to the conditions in the staff report, as follows:

1. The applicant shall secure all necessary permits and licenses for the operation of the conditional use and shall comply with all applicable Federal, State and local codes.

2. The conditional use shall comply with all site development regulations pertaining to the I-2/General Industrial District.
3. The hours of operations shall be as presented in the application.
4. All exterior lighting shall comply with the standards stated in *Section 15.24.050, Lighting Controls*, of the Council Bluffs Zoning Ordinance.
5. All signage shall comply with the standards in Chapter 15.33, *Signs*, of the Council Bluffs Zoning Ordinance.
6. All required off-street parking spaces, driveways and drive aisles shall be hard-surfaced and designed to comply with the standards stated in Section 15.23, *Off-Street Parking, Loading and Unloading* of the Council Bluffs Zoning Ordinance.
7. The 'contractor yard' area shall not exceed 73,745 square feet in size and shall be surrounded with a 10 foot-wide greenspace buffer strip and screened from view by a minimum six foot-tall fence. Any future enlargement of the 'contractor yard' shall require approval by the Zoning Board of Adjustment.
8. Crushed limestone gravel shall be allowed as a pavement material for the 'contractor yard' area only.

Finding of Fact:

1. The proposed conditional use will comply with all applicable regulations of this ordinance, including lot requirements, bulk regulations, use limitations and all other standards or conditions contained in the provisions authorizing such use.
2. Adequate utility, drainage and other necessary facilities or improvements have been or will be provided.
3. Adequate access roads or entrance and exit drives will be designed and built to prevent traffic hazards and to minimize traffic conflicts and congestion in public streets and alleys.
4. All necessary permits and licenses required for the operation of the conditional use have been obtained, or it clearly appears that such permits are obtainable for the proposed conditional use on the subject property.
5. All exterior lighting shall be shaded as necessary to direct the light away from neighboring residential properties.
6. The location and size of the conditional use, the nature and intensity of the activities to be conducted in connection with it, the size of the site, and the relationship of the site to adjacent roadways shall be considered to assure the use is in harmony with the appropriate and orderly development of the district and the neighborhood in which it is located.
7. The location, nature and height of buildings, structures, walls and fences on the site, and the nature and extent of landscaping and screening on the site shall be designed so that the use will not reasonably hinder or discourage the appropriate development, use and enjoyment of the adjacent land, buildings and structures.
8. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is located and will contribute to and promote the convenience and welfare of the public.

VOTE: AYE – Behrens, Juon, Mescher and Vargas. NAY – None. ABSTAIN – None. ABSENT – Olson. Motion carried

- D. CASE #BA-17-005: Public hearing on the request of 1782 Irish Land LLC, represented by Norman L. Springer, Jr., for a variance of Section 15.23.030(1)(D)(i.) Parking Area Design Standards-Required Green Space, to allow for a reduction of the minimum landscaped area between a parking surface and the property line to zero (0) feet from the required five (5) feet on property legally described as Lot 15, Block 26, Brown's Subdivision. Location: 3464 5th Avenue.

Norman L. Springer, Jr., 20 North 16th Street, Council Bluffs, IA 51501, representing the property owner, spoke on behalf of the request. Springer Jr. stated the applicant purchased the subject property in order to expand their law office business in the City. Springer Jr. then explained the applicant's plan to remodel the existing office building and how the proposed front addition requires all existing off-street parking on the property come into compliance with City standards. Springer Jr. discussed the existing site conditions and how the subject property is the smallest commercial lot in the general vicinity of the request and that compliance with the off-street parking setbacks is not feasible to the size and shape of the property. Springer Jr. also discussed how the City does not allow on-street parking on South 35th Street, which abuts the subject property.

No one from the public spoke in opposition of the request.

Brown clarified for the Board the required number of off-street parking spaces for the professional office use as well as the required five foot parking lot setbacks.

The Board discussed the request.

Motion by Behrens, second by Juon, to approve the requested variance at 3464 5th Avenue, as legally described above, due to the size of the subject property:

Finding of Fact:

1. The particular property, because of size, shape, topography or other physical conditions suffers singular disadvantage through the application of this ordinance, which does not apply to other properties in the vicinity.
2. Because of such disadvantage, the owner is unable to make reasonable use of the affected property.
3. The disadvantage does not exist because of conditions created by the owner or previous owners of the property.
4. Granting the variance will not confer on the applicant any special privileges that are denied by this ordinance to other properties or structures in the same district.
5. Granting the variance will not be contrary to the public interest, will not adversely affect other property in the vicinity, and will be in harmony with the purpose and intent of this ordinance.

9. OTHER BUSINESS

A. Items of interest – None.

10. ADJOURNMENT – Mescher adjourned the meeting at 4:43 p.m.

The recording of this proceeding, though not transcribed, is part of the record of each respective action of the Zoning Board of Adjustment. The recording of this proceeding is incorporated into these official minutes of this Board meeting as if they were transcribed herein.